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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/529,835	05/09/2000	CHRISTINE RONDEAU	05725.0577	6223

7590

06/05/2002

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EXAMINER

ELHILO, EISA B

ART UNIT

PAPER NUMBER

1751

10

DATE MAILED: 06/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/529,835

Applicant(s)

RONDEAU, CHRISTINE

Examiner

Eisa B Elhilo

Art Unit

1751

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 May 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: NONE.

Claim(s) objected to: NONE.

Claim(s) rejected: 2-8, 32-77

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

Art Unit: 1751

Continuation of 5. does NOT place the application in condition for allowance because:

Applicant has not presented any additional data or showing to overcome the rejection of art.

Further, the applicant argues that Rondeau teaches an oxidation dyeing composition containing oxidative dyes and direct dyes but does not teach or suggest the use of quaternary ammonium salts. Saphakkul teaches a direct dyeing composition containing direct dyes and quaternary ammonium salts but which specifically does not contain oxidative hair dyes. Therefore, no motivation to combine these references exists.

The examiner respectfully disagrees with the above arguments because Rondeau (US' 134) disclose that in order to vary the shades obtained further and to give them glints, it is possible to use, in combination with the oxidation dye precursors and the coupler, direct dyes, that is to say colored substances which provide coloration in the absence of an oxidizing agent (see col. 1, lines 52-56). Further, Rondeau teaches that the dyeing composition in accordance with the invention can also contain other direct dyes in particular in order to modify the shade or to enrich them with glints (see col. 22, lines 6-9) and quaternary polyammonium compound (see col. 24, Example 2). Furthermore, Saphakkul (EP' 343) teaches a product for conditioning and dyeing hair comprising cationic surfactants, includes quaternary ammonium salts and direct dyes (see page 2, lines 44-50). Accordingly, a prima facie case of obviousness has been established.

With respect to the rejection based upon Rondeau in view of Saphakkul and further in view of Aaslyng, Applicant argues that Aaslyng does not disclose anything which would have provided the missing motivation to combine Rondeau and Saphakkul.

The examiner respectfully disagrees with the above arguments for the same reasons given above.

Lorna M. Douyon
LORNA M. DOUYON
PRIMARY EXAMINER